

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

RICHMOND DIVISION

EDDIE A. BANKS,

Petitioner,

v.

CIVIL ACTION NO. 3:07-CV-746

GENE JOHNSON, ET AL.,

Respondents.

**RESPONDENT'S RULE 5 ANSWER
AND MOTION TO DISMISS**

The respondents, by counsel, pursuant to Rule 5, Rules Governing Section 2254 Cases, moves the Court to dismiss Eddie A. Banks's petition for a writ of habeas corpus.

1. The reasons requiring dismissal are set forth in the accompanying brief that is incorporated by this reference.

2. Each and every allegation not expressly admitted should be taken as denied.

3. The reasons for dismissal of the petition are ascertainable from the record and the applicable law without the need of an evidentiary hearing. See 28 U.S.C. § 2254(d) and (e).

WHEREFORE, the Respondents pray that the petition for a writ of habeas corpus be dismissed and without an evidentiary hearing.

Respectfully submitted,

GENE M. JOHNSON, ET AL.,
Respondents herein.

/ s/ _____
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CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2008, I have electronically filed the foregoing Rule 5 Answer and Motion to Dismiss with the Clerk of Court using the CM/ECF system, and I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF non-participant: petitioner, Eddie A. Banks, Greensville Correctional Center, 901 Corrections Way, Jarratt, Virginia, 23870-0614.

/s/ _____
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